

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

IN RE:

PROCEDURES FOR
CHAPTER 11 CASES

:
:
:
:

**GENERAL ORDER ADOPTING GUIDELINES
GOVERNING PROCEDURES FOR PAYMENT OF
INTERIM COMPENSATION AND REIMBURSEMENT
OF EXPENSES TO PROFESSIONALS**

UPON CONSIDERATION of the recommendations of the Chapter 11 Subcommittee of the Lawyer's Advisory Committee of the Bankruptcy Court for the District of New Jersey, the Court finds a need to implement policies and procedures to better serve the bench, bar and public in chapter 11 cases. Accordingly, by resolution of the Board of Judges of the United States Bankruptcy Court for the District of New Jersey,

IT IS ORDERED pursuant to 11 U.S.C. §§ 105(a) and 331 that the Guidelines Governing Procedures For Payment Of Interim Compensation And Reimbursement Of Expenses To Professionals attached hereto as Exhibit A are hereby ADOPTED; and

IT IS FURTHER ORDERED that

1. The Court reserves the right to modify the provisions of this General Order to accommodate the needs of a chapter 11 case before it; and
2. The Exhibits/Standard Forms And Orders referenced in this General Order may be revised by the Court at any time on an individual basis without the need to further amend this General Order; and

IT IS FURTHER ORDERED that this Order shall apply to chapter 11 cases pending on the date of this Order.

Dated: _____

Hon. Rosemary Gambardella, Chief Judge
United States Bankruptcy Court
District of New Jersey

EXHIBIT A

GUIDELINES GOVERNING PROCEDURES FOR PAYMENT OF INTERIM COMPENSATION AND REIMBURSEMENT OF EXPENSES TO PROFESSIONALS PURSUANT TO 11 U.S.C. §§ 105(a) AND 331

The procedures set forth below concern the submission of motions seeking the entry of an administrative order establishing procedures for payment of interim compensation and reimbursement of expenses to professionals pursuant to 11 U.S.C. §§ 105(a) and 331 for services rendered and expenses incurred during a Chapter 11 case. This will enable both the Court and practitioners to understand the procedures in advance and ensure that motions and corresponding relief they seek conform to procedures that are accepted by the Court when it is appropriate to enter such types of orders. Accordingly, the following guidelines governing procedures for payment of interim compensation and reimbursement of expenses to professionals pursuant to 11 U.S.C. §§ 105(a) And 331 have been approved by the Court.

A. SCOPE OF APPLICABILITY

1. All professionals retained in a Chapter 11 case pursuant to Bankruptcy Code §§327 and 1103 (the “Professional”) may seek post-petition interim compensation pursuant to the within guidelines by filing the appropriate motion seeking the entry of an administrative fee order (“Administrative Fee Order”).

B. SUBMISSION AND MONTHLY STATEMENTS

2. On or before the twenty-fifth (25th) day of each month following the month for which compensation is sought, each Professional seeking compensation pursuant to an Administrative Fee Order shall file with the Court and serve a monthly fee and expense statement (the “Monthly Fee Statement”), by hand or overnight delivery or by any means directed by the Court upon the following persons:

- (a) the officer designated by the Debtor to be responsible for such matters;
- (b) counsel to the Debtor;

- (c) counsel to all official committees;
- (d) United States Trustees Office for Region III – Newark , NJ office;
- (e) counsel to all post-petition lenders or their agents;
- (f) all parties filing an entry of appearance and request for notices pursuant to Federal Rule of Bankruptcy Procedure 2002; and
- (g) any other party the Court may so designate.

C. CONTENT OF MONTHLY STATEMENT

3. Each Monthly Fee Statement shall comply with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Rules for the United States Bankruptcy Court for the District of New Jersey with the exception that provisions of DNJ LBR 2016-1(a)(8) [cover sheet] and (a)(9) [narrative explanation] are not required.

4. All timekeepers must maintain contemporaneously time entries for each individual in increments of tenths (1/10th) of an hour.

D. REVIEW PERIOD

5. Each person receiving a Monthly Fee Statement shall have twenty (20) days after service of the Monthly Fee Statement to review it (the “Objection Deadline”).

E. PAYMENT

6. Upon the expiration of the Objection Deadline, each Professional may file and serve upon each of the parties set forth in Section B2 herein, including, but not limited to, the Debtor a certificate of no objection or a certificate of partial objection, whichever is applicable, after which the Debtor is authorized to pay each Professional an amount (the “Actual Interim Payment”) equal to the lesser of (i) eighty percent (80%) of the fees and 100 percent (100%) of the expenses requested in the Monthly Fee Statement or (ii) eighty percent (80%) of the fees and 100 percent (100%) of the expenses not subject to any objection.

F. OBJECTIONS

7. If any party objects to a Monthly Fee Statement, it must file a written objection (the “Notice Of Objection To Monthly Fee Statement”) and serve it upon the Professional and each of the parties served with the Monthly Fee Statement as set forth in Section B2 of these guidelines including, but not limited to, the Debtor so that the Notice Of Objection To Monthly Fee Statement is received on or before the Objection Deadline.

8. The Notice Of Objection To Monthly Fee Statement must set forth the nature of the objection and the amount of fees and/or expenses at issue.

9. If the Debtor received an objection to a particular Monthly Fee Statement, the Debtor shall withhold payment of that portion of the Monthly Fee Statement to which the objection is directed and promptly pay the remainder of the fees and disbursements in the percentages set forth in Section E7 herein.

10. If the parties to an objection are able to resolve their respective dispute(s) following the service of a Notice Of Objection To Monthly Fee Statement and if the party whose Monthly Fee Statement was objected to serves upon all the parties listed in Section B2 herein a statement indicating that the objection is withdrawn and describing in detail the terms of the resolution, then the Debtor shall promptly pay in accordance with Section E7 herein that portion of the Monthly Fee Statement which is no longer subject to an objection.

11. If the parties are unable to reach a resolution of the objection within twenty (20) days after service of the objection, then the affected Professional may either (a) file a response to the objection with the Court together with a request for payment of the difference, if any, between the Actual Interim Payment and the non-objected to portion of the Actual Interim Payment made to the affected Professional (the “Incremental Amount”); or (b) forgo payment of the Incremental Amount until the next interim or final fee application or any other date and time so directed by the Court at which time it will consider and dispose of the objection, if so requested.

12. The service of an objection to a Monthly Fee Statement shall not prejudice the objecting party's right to object to any fee application made to the Court in accordance with the Bankruptcy Code on any ground whether raised in the objection or not.

13. Furthermore, the decision by any party not to object to a Monthly Fee Statement shall not be a waiver of any kind or prejudice that party's right to object to any fee application subsequently made to the Court in accordance with the Bankruptcy Code and applicable rules.

G. FEE APPLICATIONS

14. Parties can file at four (4) month intervals or such other intervals directed by the Court ("Interim Period") an interim fee application. Each Professional seeking approval of its interim fee application shall file with the Court and serve upon the requested parties an interim application for allowance of compensation and reimbursement of expenses, pursuant to Bankruptcy Code §331, of the amounts sought in the Monthly Fee Statements issued during such period (the "Interim Fee Application").

15. The Interim Fee Application must include a summary of the Monthly Fee Statements that are the subject of the request and any other information requested by the Court and shall comply with the mandates of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedures, the Local Rules for the United States Bankruptcy Court for the District of New Jersey and the applicable Third Circuit law.

16. An Interim Fee Application must be filed and served within forty-five (45) days of the conclusion of the Interim Period.

17. Any Professional who fails to file an Interim Fee Application when due will be ineligible to receive further interim payments of fees or expenses under the Administrative Fee Order until such time as the Interim Fee Application is submitted.

18. The pendency of a fee application or a Court order that payment of compensation or reimbursement of expenses was improper as to a particular Monthly Fee

Statement shall not disqualify a Professional from the further payment of compensation or reimbursement of expenses as set forth above, unless otherwise ordered by the Court.

Additionally, the pendency of the an objection to payment of compensation or reimbursement of expenses will not disqualify a Professional from future payment of compensation or reimbursement of expenses, unless the Court orders otherwise.

19. Neither the payment of, nor the failure to pay, in whole or in part, monthly compensation and reimbursement as provided herein shall have any effect on this Court's interim or final allowance of compensation and reimbursement of expenses of any Professionals.

20. Counsel for each official committee may, in accordance with the foregoing procedure for monthly compensation and reimbursement to professionals, collect and submit statements of expenses, with supporting vouchers, from members of the committee he or she represents; provided, however, that such committee counsel ensures that these reimbursement requests comply with the applicable rules and these guidelines.

21. Each Professional may seek, in its first request for compensation and reimbursement of expenses pursuant to these guidelines, compensation for work performed and reimbursement for expenses incurred during the period of time between the commencement of the case through and including a specific date.

H. ADMINISTRATIVE ISSUES

22. Any party may object to requests for payments made pursuant to the Administrative Fee Order on the grounds that the Debtors have not timely filed monthly operation reports, remained current with their administrative expenses and 28 U.S.C. § 1930 fees, or a manifest exigency exists by seeking a further order of this Court.

23. Debtor shall include all payments to Professionals on their monthly operating reports, detailed so as to state the amount paid to the Professionals.

24. Otherwise, the Administrative Fee Order shall continue and shall remain in effect during the pendency of the case.

25. All time periods set forth in this Order shall be calculated in accordance with Federal Rule of Bankruptcy Procedure 9006(a).

26. All fees and expenses paid to Professionals are subject to disgorgement until final allowance by the Court.

I. SERVICE OF THE ADMINISTRATIVE FEE ORDER

27. Debtors must serve a copy of the Administrative Fee Order upon all parties served with the underlying motion seeking an Administrative Fee Order; all affected Professionals; all parties listed in Section B2 herein and any other party the Court shall designate.